

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

GERARDO HERNANDEZ,

Defendant.

8:18CR21

ORDER

This matter is before the Court on defendant Gerardo Hernandez's ("Hernandez") Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Filing No. 79).

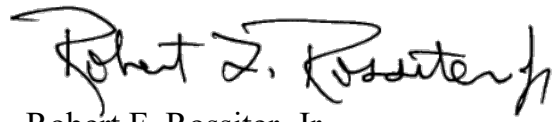
Hernandez alleges his attorney, Adam J. Sipple ("Sipple"), was constitutionally ineffective by failing to (1) challenge the drug quantity charged, (2) challenge the presence of a weapon, and (3) file an appeal. On initial review, the Court found (Filing No. 81) summary dismissal was not appropriate and ordered the government to respond. The government responded (Filing No. 86) and stated an evidentiary hearing is necessary to "evaluate the credibility of Hernandez and his counsel." Accordingly,

IT IS ORDERED:

1. A hearing on Hernandez's § 2255 Motion is set for July 15, 2021 at 1:30 p.m. in Courtroom No. 4, Roman L. Hruska Federal Courthouse, 111 S. 18th Plaza, Omaha, Nebraska 68102.
2. The Court will arrange for Hernandez to participate by telephone. The attorney for the government, defense counsel, and Sipple will personally appear.
3. The parties may call witnesses and present other relevant evidence at the hearing.

Dated this 11th day of May 2021.

BY THE COURT:

A handwritten signature in black ink, reading "Robert F. Rossiter, Jr." with a stylized flourish at the end.

Robert F. Rossiter, Jr.
United States District Judge